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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,034	06/16/2006	Gianfranco Cavilli	034170-029	4027

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

NOTIFICATION DATE	DELIVERY MODE
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04/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/551,034	Applicant(s) CAVILLI ET AL.	
	Examiner Louis K. Huynh	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/6/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/18/2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1, line 10-11: "said third conveyor interfacing with said first path along at least a portion from said application station" renders the claim indefinite because the third conveyor 32 is a physical device and the first path is an imaginary line, thus one cannot interface the another; however, a trajectory of the third conveyor may.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 9-11 & 20 are rejected under 35 U.S.C. 102(b) as being anticipated by St. Clair (US 4,817,363).

- With respect to claims 1 & 20, St. Clair discloses a machine for applying spouts (49) to containers (35) that meets all of applicant's claimed subject matter, in particular, the machine (30) of St. Clair comprises: a first conveyor (31) for feeding containers (35) along a first linear path, a second conveyor (32) provided with a plurality of gripper assemblies (94) that rotate cyclically about a common axis (101) between a pick up station (80) and an application station where the gripper assemblies deposit the spouts (49) into openings (36) of the containers (35), and a third conveyor (116) carrying a pressure device (33) having a pressing head (118) for pressing a respective spout (49) into a container (35); wherein the third conveyor is movable along at least a portion from the application station of the first linear path; wherein the gripper assemblies move on a circular trajectory that is distinct from the linear path of the first conveyor. Note that the phrase “along at least a portion from the application station” and the phrase “along at least a portion of the linear path including the application station” are understood as “any portion on the first/linear path after the application station” because the

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phrases do not require the application station to be included, just a portion of the path anywhere from the application station.

- With respect to claims 2 & 3, the pressure head (118) comprises a plurality of members, such as a pressure ring (134) and an adjusting member (135), which are supported on the third conveyor (116) that reciprocates along a portion of the first linear path of the first conveyor (31); the pressure head (118) further comprises an actuating member (shaft 123) fitted on the third conveyor (116) and movable along a vertical axis of the actuating member (123).
- With respect to claim 5, the pressure head (118) further comprises a control cam (165) through a follower arm (172) for moving the actuating member (123) in an up and down motion.
- With respect to claim 9, the machine of St. Clair further comprises a fixed guide (119) for guiding the actuating member (123) in the up and down motion.
- With respect to claim 10, the machine of St. Clair further comprises clamping jaws (152 & 153) for controlling the impacting of the pressing head (118) onto the spout (49) to snap the spout into the container (35).
- With respect to claim 11, each of the jaws (152 & 153) has a damper (155) mount at one end and is hinged about an axis crosswise to the axis of movement of the actuating member (123).

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Allowable Subject Matter

6. Claims 4, 6-8 & 12-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 27, 2009

/Louis K. Huynh/
Primary Examiner
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